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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,274	10/29/2003	Mitsuo Watanabe	1341.1163	2798

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EXAMINER

CAPUTO, LISA M

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 03/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/694,274	<b>Applicant(s)</b> WATANABE ET AL.	
	<b>Examiner</b> Lisa M Caputo	<b>Art Unit</b> 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03042004</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Drawings***

1. Figure 7 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description:

Reference numbers SA16 and SA17 are in Figure 4 but are not mentioned in the description.

A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to because:

Regarding Figure 4, step SA3 has 2 path options, both of which are "Yes". According to the specification, it seems as though there should be a --No-- option. In addition, please ensure that the flow chart of Figure 4 is consistent with the specification.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 3, 5, and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Ogasawara (U.S. Patent No. 6,327,576).

Ogasawara teaches a system and method for managing expiration-dated products utilizing an electronic receipt. Regarding claims 1 and 5, Ogasawara teaches a bar code reader and method having an arrangement to communicate with a host apparatus in a POS system (POS terminal 10) that comprises a read unit (bar code scanner 12) that reads a bar code attached to an article, and outputs bar code information corresponding to the read bar code, a term information acquisition unit (store server 14, database 16) that acquires term information included in the bar code information, a term expiration check unit (PLU table fields of database 16 include both expiration date information and freshness period information; in addition, in the home environment, the electronic receipt retrieval and processing for expiration date management is preferably performed by a home terminal unit 24) that checks whether the term of the article has expired based on the term information, and a notification unit (electronic receipt 18 employed as a conventional paper receipt or IC card, and display

screen 60) that notifies that the term of the article has expired upon determination by the term expiration check unit that the term of the article has expired (see Figure 1, col 3 line 22 to col 7 line 46).

Regarding claims 3 and 7, Ogasawara teaches the use of a transmission unit that transmits the bar code information to the host apparatus upon determination that the term of the article has expired (the bar code information scanned from each particular item is transmitted to a store platform computer 14) (see Figure 1, col 3).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 2, 4, 6, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogasawara in view of DiMaria (U.S. Patent No. 6,148,091). The teachings of Ogasawara have been discussed above.

Regarding claims 2 and 6, although Ogasawara does indeed teach that expiration dates are calculated based on the current date settings and that the term expiration check unit checks whether the term of the article has expired based on a comparison of the present date with the term information, Ogasawara fails to specifically teach that the bar code reader has a timer unit that keeps record of the present date.

DiMaria teaches an apparatus for controlling the rental and sale of age-controlled merchandise. DiMaria teaches that the processing unit 30 determines whether the bearer can purchase or rent age-controlled merchandise or gain access to an age-controlled activity based upon the bearer's age. The presented identification information, age data, current date, current time, and whether the bearer was authorized to purchase or rent age-controlled merchandise or gain access to age-controlled services is stored in a journal in memory 55. The journal may be accessed for printing of a report by printer 80 (see Figure 3, col 4, lines 16-26 and col 4 line 27 to col 5 line 55). It is obvious to one in the art that when using time sensitive material there is consideration given to time error.

In view of the teaching of DiMaria, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ogasawara to have an additional unit that keeps the record of the present date, since this piece of information is a necessary component to figuring out if a product is expired. It is appropriate to

combine DiMaria with Ogasawara because both systems teach the use of bar code apparatus and method to obtain expiration information for products, whether it be the purchase of groceries or age-related products.

Regarding claims 4 and 8, Ogasawara teaches that as an alternative to database or PLU table entry, an item's expiration date and/or freshness period information may be embedded or appended to machine readable item identification means (bar code or RFID tag) affixed to an item's packaging. Expiration date information and/or freshness period information might be provided as part of an extended bar code or as a second bar code printed on the product packaging as the item is ready to ship. Likewise, expiration date information and freshness period information might be appended to the conventional information provided in an RFID tag. Thus, rather than defining a link to the expiration date and freshness period information contained in the database, an item's bar code and/or RFID tag contains all of the requisite information associated to that item (see col 7, lines 54-67). Hence, Ogasawara teaches that a date setting bar code is employed for the expiration date and/or freshness period.

However, Ogasawara fails to teach that the date setting unit sets the date of the timer using a bar code.

DiMaria teaches that current date and time information is set (see col 4, lines 16-26).

In view of the teaching of DiMaria, it would have been obvious to one of ordinary skill in the art at the time the invention was made to employ a date setting unit that also records the current date, in addition to the expiration date/freshness period dates so

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that all of the information is comprehensive and able to be accessed quickly for a determination of a product validity (i.e. expired or not).

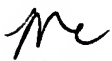
**Conclusion**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Lisa M. Caputo** whose telephone number is **(571) 272-2388**. The examiner can normally be reached between the hours of 8:30AM to 5:00PM Monday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached at **(571) 272-2398**. The fax phone number for this Group is (703) 872-9306.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [**lisa.caputo@uspto.gov**].

*All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.*

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.



LMC

March 5, 2004



**DIANE I. LEE**  
**PRIMARY EXAMINER**